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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,056	04/12/2002	Witta Bruss	6713-Dr-Hn-be	4384

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EXAMINER

KEEHAN, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,056

Applicant(s)

BRUSS ET AL.

Examiner

Christopher M. Keehan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-893)
- ☒ Information Concerning Substantive Examination (PTO-894) (Applicant's Reply)
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Appeal (PTO-901)
- ☐ Other _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 4 and 5, the claim language "to form an optionally multi-ply" is not clear, as there are no process steps set forth to form a multi-ply composite. In claim 6, applicant refers to a two-layer film, with a first layer and a lower layer. However, it is not clear from the claim language that these are two different layers, and the lower layer can therefore be the first layer. Further, in claim 7, applicant refers to the upper layer in claim 6, but there does not appear to be antecedent basis for this upper layer. Perhaps changing the claim language (in both claims 6 and 7) to refer to an upper and lower layer, or first and second layer, would clarify the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country, or in a public

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews et al. (GB 2207867A). Andrews et al. disclose a film comprising at least one elastic

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polyurethane film (page 3, last paragraph), the film being provided with a silicone based water repellent (page 12, first paragraph).

Regarding claim 2, Andrews et al. disclose a liner covered over its entire width (page 14, last paragraph) with an anti-adhesive carrier material (page 16, first paragraph).

Regarding claim 3, Andrews et al. disclose a material as instantly claimed (page 15, first paragraph).

Claims 1-3, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Naestoft et al. (5,643,187). Naestoft et al. disclose a film comprising at least one elastic polyurethane film being provided with a silicone-based water repellent (col.7, line 13-col.8, line 57). It is the examiner's position that the silicone-based additive of Naestoft et al. acts as a water repellent, as silicone-based compounds are water repellent.

Regarding claim 2, Naestoft et al. disclose a liner covered over its entire width with an anti-adhesive carrier material (Abstract).

Regarding claim 3, Naestoft et al. disclose a soft lowermost layer (Abstract), which would confer beneficial effects on an affected area.

Regarding claim 6, Naestoft et al. disclose a film comprising a two-layer elastic film (Figure 2), the first layer being treated with a silicone-based water repellent (col.7, line 13-col 8 line 57) and the first layer being applied partially (col 7 lines 35-43)

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (GB 2207867A) in view of Gotz (DE 4314834 A1). Andrews et al., as applied above, are as set forth and incorporated herein. Andrews et al. disclose a removable paper layer (page 16, first paragraph). Andrews et al. do not specifically disclose a siliconized paper. Gotz discloses the basic structure of the bandage as claimed by applicant, including a siliconized paper layer (col.2, lines 19-29) (based on partial oral spot translation and the international search report). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for Andrews et al. to have employed a siliconized layer as taught by Gotz in the article of Andrews et al. because Gotz teaches that siliconized paper layers function in bandages as effective release layers resulting in a higher quality product.

Allowable Subject Matter

It should be noted that claims 4-7, and 9 would be allowable if rewritten to Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Keehan whose telephone number is (703) 305-2778. The examiner can normally be reached on Monday-Friday, from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Dawson can be reached on 308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Christopher Keehan *C. Keehan*

May 27, 2003